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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,142	11/07/2001	Robert L. Smith	V-3280-010	4757

7590 07/12/2004

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EXAMINER

KEENAN, JAMES W

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,142

Applicant(s)

SMITH, ROBERT L.

Examiner

James Keenan

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/24/04 has been entered.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 12-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, line 7, it is not clear if the recitation of "each one of said guides" refers to the support guides only or the support guides and the connector guide. This also applies to claim 21.

Claim 14 does not further limit claim 12 from which it depends. This may also apply to claim 13 if the reference to the guides in claim 12 includes the connector guide.

Claim 15 should depend from claim 12.

Claim 20 states that each of the "at least two support guides lies in a horizontal plane", and that each plane is spaced apart from the other. This is incorrect. Since the claim only requires at least two support guides, this could include only guides 36, only

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guides 38, or one of each of guides 36 and 38. Although the guides 36 and 38 lie in spaced apart horizontal planes relative to each other, the pair of guides 36 and the pair of guides 38 each lie in the same horizontal plane. Thus, if the "at least two support guides" referred to only the guides 36 or only the guides 38, the claim would be incorrect.

The above also applies to claim 21.

4. Claims 12-14 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroig, Jr. (US 6,413,033) in view of Heine (US 5,556,249), both previously of record.

Monroig, Jr., as noted in the previous Office action, shows the invention essentially as claimed except that the support guides 90 are not attached to the beam 78.

Heine shows a similar invention wherein rollers 62 (support guides) are attached to beam 56 in a manner consistent with the claimed invention.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Monroig, Jr. by attaching the support guides to the beam, as shown by Heine, as this would simply be an art recognized design expediency, the use of which would neither require undue experimentation nor produce unexpected results.

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5. Claims 12-14 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heine in view of Monroig, Jr.

Heine shows the invention as claimed except it lacks a connector guide for the cable 80.

Monroig, Jr., as previously noted, shows this feature.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Heine by adding a connector guide for the cable, as suggested by Monroig, Jr., as this would guide the cable and allow the winch to be mounted lower in the vehicle for better weight distribution, while precluding the need for a separate winch mount 70.

6. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroig, Jr. in view of Heine, or Heine in view of Monroig, Jr., as applied to claim 12 above, and further in view of Goss et al (US 5,354,164), previously cited.

Neither Monroig nor Heine show the guide assembly to comprise retaining guides having the claimed features.

Goss et al, as noted in the previous Office action, shows retaining guides 32 having the claimed limitations.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Heine or Monroig with retaining guides having the features of Goss et al, as this would be less complex and would allow greater flexibility in cargo loading and unloading.

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7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monroig, Jr. in view of Heine, or Heine in view of Monroig, Jr., as applied to claim 12 above, and further in view of Whiting (US 4,630,990), previously cited.

Neither Monroig nor Heine show the guide assembly connected to a trailer hitch.

Whiting, as noted in the previous Office action, shows this feature.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Heine or Monroig by attaching the guide assembly to a trailer hitch, as Whiting shows this to be an alternate equivalent to mounting in the bed of the vehicle.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monroig, Jr. in view of Heine and Whiting, or Heine in view of Monroig, Jr. and Whiting, as applied to claim 17 above, and further in view of Abbott (US 4,301,953), previously cited.

The modified apparatus of neither Monroig nor Heine show the means for attaching the guide assembly to the trailer hitch to include the claimed features.

Abbott, as noted in the previous Office Action, shows the attachment means for a trailer hitch to have the features set forth in the claim.

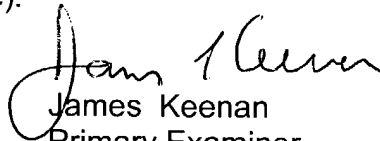
It would have been obvious for one of ordinary skill in the art at the time of the invention to have yet further modified the apparatus of Monroig or Heine by utilizing a peg received in a tube as the attachment means for the trailer hitch, as shown by Abbott, as this would allow the truck to be used for towing even when loaded with cargo.

9. Applicant's arguments with respect to claims 12-21 have been considered but are moot in view of the new ground(s) of rejection.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-2559. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk
7/7/04